

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2004-0066
)	for
USA Gasoline Corporation)	Mandatory Minimum Penalties
30101 Agoura Court, Suite 200)	(replacing Order No. R8-2004-0019)
Agoura Hills, CA 91301)	
)	
<u>Attn: Chuck Miller</u>)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on August 13, 2004 to receive testimony and take evidence on the staff recommendation to rescind Order No. R8-2004-0019, which in turn, was based upon allegations contained in Complaint No. R8-2003-0093, dated September 2, 2003, and to reconsider the imposition of mandatory penalties in the amount of \$24,000, affirmed by Order No. R8-2004-0019 on January 22, 2004. The Board finds as follows:

1. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit regulates discharges of extracted and treated groundwater resulting from the cleanup of groundwater polluted by petroleum hydrocarbons and/or solvents within the Santa Ana Region. The Permit contains effluent limits for a number of constituents, including tertiary butyl alcohol (TBA) and dichlorobromomethane (DCBM). On July 16, 2002, the Executive Officer enrolled USA Gasoline Corporation (USA) under the Permit, authorizing it to discharge treated groundwater from USA Station #239, located at 41339 Big Bear Boulevard in the City of Big Bear Lake. The discharge from USA's system was directed to a storm drain that ultimately discharges into Big Bear Lake, a water of the United States. USA was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-0091.
2. USA submitted self-monitoring reports, which indicated that it had tertiary butyl alcohol TBA and DCBM effluent violations between July 2002 and January 2003. Based on staff review, a total of eight violations were originally identified. Six of these violations were serious and the other two were chronic. All eight violations were determined to be subject to mandatory minimum penalties.
3. Water Code Sections 13385(h) and (i) require the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and/or chronic violation.
4. On September 2, 2003, the Executive Officer issued Complaint No. R8-2003-0093 to USA proposing that the Board impose a mandatory minimum penalty of \$24,000 on USA for these eight effluent violations.

August 13, 2004

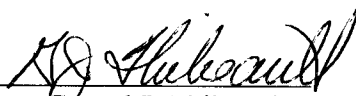
5. On January 22, 2004, the Board adopted Order No. R8-2004-0019, affirming that a mandatory minimum penalty of \$24,000 be imposed on USA for the violations cited above. The assessment set forth in Order No. R8-2004-0019 was based on use of an erroneous protocol to determine discharges subject to mandatory minimum penalties. Rather than eight violations as set forth in Order No. R8-2004-0019, USA had only six violations subject to mandatory minimum penalties during the subject period.
6. In accordance with Water Code Section 13385(h), the total mandatory minimum penalty for the six effluent limitation violations cited in Section 2, above, should be \$18,000.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, mandatory penalties be imposed on USA Gasoline Corporation in the amount of \$18,000 for violations cited, rather than the \$24,000 proposed in Complaint No. R8-2003-0093 and affirmed by Order No. R8-2004-0019. This revised penalty amount of \$18,000 shall be payable as set forth below.

1. USA shall pay the entire \$18,000 by check made out to State Water Pollution Cleanup and Abatement Account, and delivered to the State Water Resources Control Board by September 17, 2004.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on August 13, 2004.

By this action, it is the intent of the Board solely to correct the error in use of assessment calculation protocol. It is not the intent of the Board to provide the discharger or Waterstone with a second opportunity to seek review of the Order, which in all other respects remains unchanged. However, pursuant to Water Code Section 13320, USA may petition the State Water Resources Control Board for review of this Order. If USA chooses to do so, USA must submit the petition to the State Water Resources Control Board within 30 days of the Board's adoption of this Order.


Gerard J. Thibeault
Executive Officer